

SENATE FILE NO. SF0076

Warrants for digital records.

Sponsored by: Senator(s) Nethercott, Anselmi-Dalton, Hicks
and Kinskey and Representative(s) Haley,
Jennings, Pelkey, Pownall, Stith and Wilson

A BILL

for

1 AN ACT relating to criminal procedure; authorizing warrants
2 to out-of-state providers of electronic communication
3 services and remote computing services; providing procedures;
4 requiring Wyoming providers to comply with out-of-state
5 warrants as specified; providing immunity for compliance;
6 providing definitions; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-7-106 is created to read:

11

12 **7-7-106. Warrants to out-of-state providers of**
13 **electronic communication services and remote computing**
14 **services; definitions; production of records to another**
15 **state; notice; immunity.**

1

2 (a) As used in this section:

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4 (i) "Electronic communication service" means any
5 service that provides to users the ability to send or receive
6 wire or electronic communications;

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8 (ii) "Provider" means an entity that provides
9 electronic communication services or remote computing
10 services to the general public;

11

12 (iii) "Records relating to electronic
13 communications services or remote computing services"
14 includes papers, documents, records or other things whether
15 in physical or electronic form that reveal the identity of
16 the customers using those services, data stored by, or on
17 behalf of, the customer, the customer's usage of those
18 services, the recipient or destination of communications sent
19 to or from those customers or the content of those
20 communications;

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1 (iv) "Remote computing service" means any service
2 that provides computer storage or processing service by means
3 of an electronic communications system.

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5 (b) Provided that the criminal matter is triable in the
6 state of Wyoming, any district judge may issue a warrant
7 authorizing the seizure of, or commanding the production of,
8 records relating to electronic communications services or
9 remote computing services, regardless of whether:

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11 (i) The provider is located within the state of
12 Wyoming; or

13

14 (ii) The records sought are located within the
15 state of Wyoming.

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17 (c) A warrant issued pursuant to subsection (a) of this
18 section may be served by:

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20 (i) Hand delivering a copy to the provider;

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22 (ii) Sending a copy by:

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1 (A) Certified or registered mail;

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3 (B) Express mail; or

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5 (C) Any other means of service specified by
6 the provider, including email or submission via an internet
7 web portal that the recipient has designated for the purpose
8 of service of process; or

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10 (iii) Any means specified by court rule for the
11 service of warrants authorized by this section.

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13 (d) When properly served with a warrant issued pursuant
14 to subsection (b) of this section, a provider shall produce
15 to the applicant all records sought pursuant to the warrant
16 within five (5) business days, except:

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18 (i) The warrant may require production within less
19 than five (5) business days if the judge finds reasonable
20 cause in the application to believe that failure to produce
21 records within five (5) business days would result in:

22

1 (A) Danger to the life or physical safety of
2 an individual;

3

4 (B) A flight from prosecution;

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6 (C) The destruction of or tampering with
7 evidence;

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9 (D) The intimidation of potential witnesses;
10 or

11

12 (E) Serious jeopardy to an investigation or
13 undue delay of a trial.

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15 (ii) A provider or user may seek to quash the
16 warrant by filing a motion seeking relief from the court that
17 issued the warrant within the time required for production of
18 records pursuant to this subsection. The issuing court shall
19 hear and decide the motion not later than five (5) court days
20 after the motion is filed.

21

22 (e) A provider shall verify the authenticity of records
23 that it produces under this section by providing an affidavit

1 attesting to the nature and identification of the records,
2 and by providing contact information of the custodian or other
3 qualified person who compiled the records. When verified, the
4 condition precedent to admissibility under Rule 901 of
5 Wyoming Rules of Evidence shall be deemed satisfied.

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7 (f) A Wyoming provider, when served with a warrant
8 issued by another state to produce records relating to
9 electronic communications services or remote computing
10 services, shall produce those records as if that warrant had
11 been issued by a Wyoming court.

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13 (g) Any person or entity providing records in
14 accordance with the terms of a warrant issued under this
15 section is immune from civil liability related to the
16 production of the records.

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18 **Section 2.** W.S. 7-7-101(a)(intro) is amended to read:

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20 **7-7-101. Authority to issue; grounds.**

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22 (a) Except as provided in W.S. 7-7-106, any district
23 judge, district court commissioner, circuit judge or

1 magistrate authorized pursuant to W.S. 5-9-208(a), (b) or
2 (c)(xv) or 5-9-212(a)(ix) may issue a search warrant to search
3 for and seize any property:

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5 **Section 3.** This act is effective July 1, 2019.

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7

(END)